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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/036,142	12/26/2001	Michael Cafaro	D.1553-HT	3931
3574	7590	01/12/2004	EXAMINER	
JOHN E. TOUPAL 116 CONCORD STREET FRAMINGHAM, MA 01701			DEMILLE, DANTON D	
			ART UNIT	PAPER NUMBER
			3764	4
DATE MAILED: 01/12/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/036,142

Applicant(s)

CAFARO, MICHAEL

Examiner

Danton DeMille

Art Unit

3764

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 31 October 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-11 is/are allowed.
- 6) ☒ Claim(s) 12-21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____. 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 103

Claims 12-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Amendt in view of Barradas. Amendt teaches a basin with a steam generator for directing steam within the basin that would condense and collect at the bottom of the basin. Water would collect forming a pool of water that can be called bathing water.

The steam generator directs steam through a steam vent as shown in figure 8b. Figure 8b shows a horn 44 with a steam vent out the very top or apex of the horn. This top vent directs steam upwardly. Broadly, the user is capable of placing one or both feet above this vent and thereby comprehends the claimed function of directing steam to the soles of the feet.

There is no unobviousness to provide a vibrator within the basin to massage any part of the body desired. Barradas teaches providing a vibrator and a heater in the bottom of the basin to massage and heat the feet. It would have been obvious to one of ordinary skill in the art to modify Amendt to include a vibrator and heater for the feet as taught by Barradas to provide the added benefit of vibration and heat massage.

Claims 1-11 are allowable over prior art to which the examiner is aware.

Response to Arguments


Applicant's arguments with respect to claims 12-21 have been considered but are moot in view of the new ground(s) of rejection.


Since the Amendt device has a basin for accommodating both feet and since water condensation would collect in the bottom of the basin, a pool of water would form. This can be called bathing water. It is not clear how much weight can be given the description of "bathing

Art Unit: 3764

water” since the water is not part of the claimed invention. The amount of water in the bottom of the basin is a function of intended use. If enough water collects the feet could become submerged, at least to a certain extent.

Figure 8b clearly shows a steam vent in the top portion of the horn 44 directing steam upwardly which is capable of directing steam at the soles of the feet if the user were to place their feet above the vent. Therefore Amendt comprehends the invention as claimed.

ddd
7 January, 2004
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Art Unit 3764